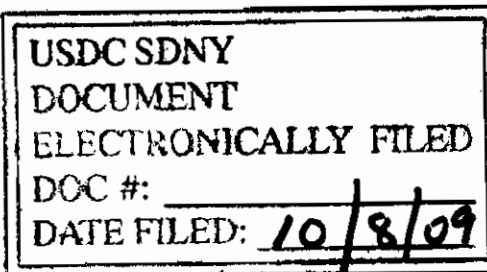


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



ELIZABETH COMBIER,

Plaintiff,

-against-

THE STATE OF NEW YORK, et al.,

Defendants.

09 Civ. 5314 (RJH)

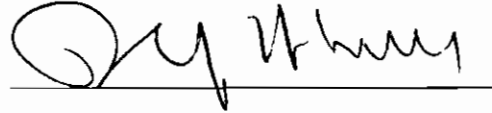
ORDER

Plaintiff's Motion to Oppose Referral to Magistrate Judge Frank Maas Due to Conflicts of Interest is hereby DENIED. Plaintiff argues that Judge Maas should be disqualified because he presided over the criminal trial of a potential witness in plaintiff's case, which resulted in a conviction that Judge Maas later vacated for lack of consent under 18 U.S.C. § 3401, and because plaintiff herself criticized Judge Maas's handling of the trial in articles and speeches. *See United States v. Posr*, No. 04 CR 1033 (LAK), 2006 WL 3025957, at *1 (S.D.N.Y. Oct. 25, 2006). Neither the prior criminal proceedings nor plaintiff's statements about Judge Maas are grounds for disqualification under the circumstances. *See Liteky v. United States*, 510 U.S. 540, 555 (1994) ("[O]pinions formed by the judge on the basis . . . of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible."); *United States v. Bayless*, 201 F.3d 116, 129 (2d Cir. 2000) (media criticism rarely justifies recusal).

Accordingly, plaintiff's motion is denied and the case remains assigned to Judge Maas for a Report and Recommendation.

SO ORDERED.

Dated: New York, New York
October 2, 2009

A handwritten signature in black ink, appearing to read "Richard J. Holwell", written over a horizontal line.

Richard J. Holwell
United States District Judge